



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT NAIROBI**

**ELC MSC. CASE NO. 10 OF 2018**

**TERESIAH WAIRIMU KIRIMA.....APPLICANT**

**(AS ADMINSTRATOR OF THE ESTATE OF G.K. KIRIMA - DECEASED)**

**VERSUS**

**THE CHAIRMAN RENT**

**RESTRICTION TRIBUNAL NAIROBI.....1ST RESPONDENT**

**THE HONOURABLE ATTORNEY GENERAL.....2ND RESPONDENT**

**ROSE MUTHONI.....1ST INTERESTED PARTY**

**RUTH NZOVYA.....2<sup>ND</sup> INTERESTED PARTY**

**RULING**

1. On 26/1/2018, the exparte applicant, Teresiah Wairimu Kirima, brought a chamber summons application seeking leave of this court to bring a substantive motion for orders of certiorari and prohibition in relation to **Nairobi Rent Restriction Tribunal Case No. 787 of 2017** and **Nairobi Rent Restriction Tribunal RR (A) Case No 31 of 2017; Rose Muthoni v Teresiah Wairimu Kirima & Another**. She contends that the said cases are tenancy disputes and that the contractual rent is Kshs 32,000 per month. She further contends that the Tribunal ordered a rent assessment and monthly rent was assessed at Kshs 25,000. She adds that despite the fact that the Tribunal lacks jurisdiction by dint of the above monthly rent, it has insisted on exercising jurisdiction over the dispute.

2. I have considered the application within the framework of the Fair Administrative Action Act. The contention of the applicant is that the Tribunal is engaged in outright illegality in the sense that even after it established that the assessed monthly rent is Kshs 25,000, it has failed to down its tools for lack of jurisdiction.

3. If that be the case, there appears to be exceptional circumstances and a proper interest of justice ground warranting this court's exercise of its powers under Section 9(4) of the Fair Administrative Action Act to grant exemption to the applicant to challenge the alleged illegality. Consequently, I hereby grant the applicant the nod to bring the judicial review motion within 21 days. In default, the leave so granted shall stand vacated.

4. For the same reasons, the leave so granted shall operate as stay of further proceedings in **Nairobi Rent Restriction Tribunal Case No. 787 of 2017** and **Nairobi Rent Restriction Tribunal RR(A) Case No 31 of 2017; Rose Muthoni v Teresiah Wairimu Kirima & Another**. Costs shall be in the cause.

**DATED, SIGNED AND DELIVERED AT NAIROBI ON THIS 25TH DAY OF MAY 2018.**

**B M EBOSO**

**JUDGE**

**In the presence of:**

Mr. Kihara holding brief for Ms. Mogire Advocate for the Applicant

Ms Rose Muthoni Advocate for the 1<sup>st</sup> Interested Party

Ms Halima - Court clerk